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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,174	02/20/2004	Malcolm Thomas Hammond	263593.00002	4503

7590 02/27/2007  
Fasken Martineau DuMoulin LLP  
2100 - 1075 West Georgia Street  
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CANADA

EXAMINER
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MORGAN JR, JACK HOSMER

ART UNIT	PAPER NUMBER
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3782

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/27/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/782,174	<b>Applicant(s)</b> HAMMOND, MALCOLM THOMAS	
	<b>Examiner</b> Jack H. Morgan	<b>Art Unit</b> 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/20/04</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the two methods of mounting the supporting member to the vehicle, directly and indirectly mounting, as referred to in claim 1, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 describes a "supporting member which is mountable directly or indirectly to said vehicle", however there is only one mode of mounting which was disclosed in the specification, this being by a hitch attachment bar. Because of this disclosure, the member cannot be mountable directly or indirectly, but instead is only mounted indirectly.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 3, 8, 9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore (GB 2327655A). Moore discloses a bicycle carrier (fig 1) with a supporting member (11) mountable to a vehicle with a cradle (the structure of 30-33)

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capable of receiving a bicycle fork crown, as it is possible to place the bicycle fork crown on the bar with the wheel and frame preventing the bike from moving, wherein the bicycle will be suspended below said fork crown.

In regards to claim 2, the supporting member (11) is generally vertical with a horizontal upper structure (27 and 28) upon which the cradle is mounted.

In regards to claim 3, the supporting member has means to attach to a vehicle hitch (22).

In regards to claims 8 and 9, the limitations are met above.

In regards to claim 12, the horizontal support member (27 and 28) is mounted generally parallel to the rear of said vehicle.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1-13 are rejected under 35 U.S.C. 102(a) as being anticipated by Preston (WO 03/064214A1). Preston discloses a bicycle carrier (fig 1) with a supporting member (26) mountable to a vehicle (11) with a cradle (20) capable of receiving a bicycle fork crown, wherein the bicycle will be suspended below said fork crown.

In regards to claim 2, the supporting member (26) is generally vertical with a horizontal upper structure (22) upon which the cradle is mounted.

In regards to claim 3, the supporting member has means to attach to a vehicle hitch (28).

In regards to claim 4, the supporting member has a lower structure to secure a bicycle rear wheel (Page 4, lines 21-23).

In regards to claim 5, there are a plurality of cradles mounted on the upper structure (fig 2).

In regards to claim 6, when a bicycle is hung from an outer cradle of Preston's invention, and then tied to the supporting member, the bicycle is then capable of being at an angle other than perpendicular to the handlebars and fork crown by tying the rear wheel to the support member, thus moving the lower portion of the bicycle towards the support member.

In regards to claim 7, the cradle includes tie down means to secure a bicycle fork (39) (Page 5, lines 7-8).

In regards to claims 8-11 and 13, the limitations have been set forth above.

In regards to claim 12, the horizontal support is generally parallel to the rear end of the vehicle.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Preston (WO 03/064214A1) in view of Hansen (US 6,834,786). Preston discloses all the limitations of the claim except for a plurality of bicycles with said bicycle fork crowns and handlebars at an angle other than parallel to said horizontal support member.

Hansen discloses a bicycle carrier (fig 2) with a cradle (30) that is offset at an angle other than parallel from a horizontal bar (18) so as to allow more bikes to be placed in close proximity, in order to avoid handlebar interference (Col 2, lines 34-45). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to offset the cradle of Preston from his horizontal cradle support in order to prevent handlebar interference and be able to attach more bikes closer together to his bicycle carrier.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McLemore et al. (US 6,491,195) and Surkin (US 6,123,498).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack H. Morgan whose telephone number is 571-272-3385. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jack Morgan  
AU 3782  
October 26, 2006

  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER